

AN ACT

relating to exemptions from liability for certain professionals for the disclosure of certain mental health information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 611.002, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004, 611.0041, or 611.0045.

(b-1) No exception to the privilege of confidentiality under Section 611.004 may be construed to create an independent duty or requirement to disclose the confidential information to which the exception applies.

SECTION 2. Section 611.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A professional may disclose confidential information only:

(1) to a governmental agency if the disclosure is required or authorized by law;

(2) to medical, mental health, or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the patient to the

1 patient or others or there is a probability of immediate mental or
2 emotional injury to the patient;

3 (3) to qualified personnel for management audits,
4 financial audits, program evaluations, or research, in accordance
5 with Subsection (b);

6 (4) to a person who has the written consent of the
7 patient, or a parent if the patient is a minor, or a guardian if the
8 patient has been adjudicated as incompetent to manage the patient's
9 personal affairs;

10 (5) to the patient's personal representative if the
11 patient is deceased;

12 (6) to individuals, corporations, or governmental
13 agencies involved in paying or collecting fees for mental or
14 emotional health services provided by a professional;

15 (7) to other professionals and personnel under the
16 professionals' direction who participate in the diagnosis,
17 evaluation, or treatment of the patient;

18 (8) in an official legislative inquiry relating to a
19 state hospital or state school as provided by Subsection (c);

20 (9) to designated persons or personnel of a
21 correctional facility in which a person is detained if the
22 disclosure is for the sole purpose of providing treatment and
23 health care to the person in custody;

24 (10) to an employee or agent of the professional who
25 requires mental health care information to provide mental health
26 care services or in complying with statutory, licensing, or
27 accreditation requirements, if the professional has taken

1 appropriate action to ensure that the employee or agent:

2 (A) will not use or disclose the information for
3 any other purposes; and

4 (B) will take appropriate steps to protect the
5 information; or

6 (11) to satisfy a request for medical records of a
7 deceased or incompetent person pursuant to Section 74.051(e), Civil
8 Practice and Remedies Code.

9 (a-1) No civil, criminal, or administrative cause of action
10 exists against a person described by Section 611.001(2)(A) or (B)
11 for the disclosure of confidential information in accordance with
12 Subsection (a)(2). A cause of action brought against the person for
13 the disclosure of the confidential information must be dismissed
14 with prejudice.

15 SECTION 3. Section 159.002, Occupations Code, is amended by
16 adding Subsection (c-1) to read as follows:

17 (c-1) No exception to the privilege of confidentiality
18 under Section 159.003 or 159.004 may be construed to create an
19 independent duty or requirement to disclose the confidential
20 information to which the exception applies.

21 SECTION 4. Section 159.004, Occupations Code, is amended to
22 read as follows:

23 Sec. 159.004. EXCEPTIONS TO CONFIDENTIALITY IN OTHER
24 SITUATIONS. (a) An exception to the privilege of confidentiality
25 in a situation other than a court or administrative proceeding,
26 allowing disclosure of confidential information by a physician,
27 exists only with respect to the following:

1 (1) a governmental agency, if the disclosure is
2 required or authorized by law;

3 (2) medical, mental health, or law enforcement
4 personnel, if the physician determines that there is a probability
5 of:

6 (A) imminent physical injury to the patient, the
7 physician, or another person; or

8 (B) immediate mental or emotional injury to the
9 patient;

10 (3) qualified personnel for research or for a
11 management audit, financial audit, or program evaluation, but the
12 personnel may not directly or indirectly identify a patient in any
13 report of the research, audit, or evaluation or otherwise disclose
14 identity in any manner;

15 (4) those parts of the medical records reflecting
16 specific services provided if necessary in the collection of fees
17 for medical services provided by a physician, professional
18 association, or other entity qualified to provide or arrange for
19 medical services;

20 (5) a person who has consent, as provided by Section
21 [159.005](#);

22 (6) a person, corporation, or governmental agency
23 involved in the payment or collection of fees for medical services
24 provided by a physician;

25 (7) another physician or other personnel acting under
26 the direction of the physician who participate in the diagnosis,
27 evaluation, or treatment of the patient;

1 (8) an official legislative inquiry regarding state
2 hospitals or state schools, if:

3 (A) information or a record that identifies a
4 patient or client is not released for any purpose unless proper
5 consent to the release is given by the patient; and

6 (B) only records created by the state hospital or
7 school or its employees are included; or

8 (9) health care personnel of a penal or other
9 custodial institution in which the patient is detained if the
10 disclosure is for the sole purpose of providing health care to the
11 patient.

12 (b) No civil, criminal, or administrative cause of action
13 exists against a physician for the disclosure of confidential
14 information in accordance with Subsection (a)(2). A cause of
15 action brought against a physician for the disclosure of the
16 confidential information must be dismissed with prejudice.

17 SECTION 5. The changes in law made by this Act apply only to
18 a disclosure of confidential information made on or after the
19 effective date of this Act. A disclosure made before the effective
20 date of this Act is governed by the law in effect on the date the
21 disclosure was made, and that law is continued in effect for that
22 purpose.

23 SECTION 6. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 549 was passed by the House on April 16, 2021, by the following vote: Yeas 117, Nays 28, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 549 on May 28, 2021, by the following vote: Yeas 137, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 549 was passed by the Senate, with amendments, on May 20, 2021, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor